

## Why [Xola's Website Waiver Advice](#) Constitutes Gross Negligence: Industry Standards and Legal Oversights in Digital Waiver Use for Zip line Operations

by Michael "Troy" Richardson

### Abstract

This document looks at a website web page or article's advice regarding *digital waiver* prose or text, and dangerously misleads the public because it overemphasizes that digital waivers act as a liability shield. Most waivers read by this author fail to address fundamental industry safety standards, state regulations, and compliance with the manufacturers' guidelines. The standards invite committee members to share the engineering principles meant to govern aerial adventure course operations, but these principles are often neglected. And the extremely high cost of zipline insurance premiums today is reminiscent of operational failures. Below is an outline of the critical flaws and reference applicable industry standards that contradict the advice given in the featured website's article from Xola. This article attempts to help Xola, zipline owners, and operators who follow standards and guidelines. With its advice and compliance recommendations together, we can design safer aerial adventures for all participants. Safety is NO Accident!

### Keywords

Digital waivers, Ziplines, Standards, Compliance, Regulations, Aerial Adventure Parks, Gross Negligence

### Website Article's Link

[Xola Waivers: Why digital waivers are a must-have - Xola](#)

---

## 1. Waivers Do Not Replace Compliance with ASTM Standards & ACCT Guidelines

The website's article misleadingly suggests that a waiver ensures a business is protected from liability, which is false and negligent. Unfortunately, most injured patrons don't sue when they can win with non-compliance. Waivers may help limit some liability, but they do not absolve an operator from responsibility if they fail to adhere to safety standards and regulations.

Applicable Industry Standards:

- ASTM F2959: This is the governing standard for aerial adventure courses, including ziplines, and mandates proper braking systems, rider weight limits, and emergency evacuation plans.
- ASTM F770: This standard covers the practice for operations, maintenance, and inspection of amusement rides and devices, including ziplines.
- ASTM F2970: Covers design, manufacture, installation, operation, maintenance, inspection, and major modification of zipline courses.
- ACCT (Association for Challenge Course Technology) Standards: These address staff training, operational protocols, and equipment inspection requirements.

Why the Website's Article is Negligent:

- It implies that signing a waiver protects a business from liability, which directly contradicts ASTM F2959, which requires that operations comply with its braking requirements, regardless of waiver prose.
- Most waivers fail to mention that ASTM requires independent third-party inspections, meaning even with a waiver, if an accident occurs due to non-compliance, the business is still legally liable.

Regulatory Consequences:

- If an operator relies solely on a waiver without following ASTM or ACCT standards, they can be shut down by state regulators, void their insurance policy, and face lawsuits for gross negligence.

---

## 2. Ignoring Engineering Risks: Delta T (Temperature Variations) and Rider Mass

The website's article completely ignores key engineering safety concerns that directly impact rider safety and are covered under ASTM and ACCT standards.

Delta T (Temperature Variations Affecting Cable Tension)

- ASTM F2959 advises zipline operators to account for cable sag and tension variations due to temperature shifts.

- Cold temperatures increase cable tension, leading to higher rider speeds and harder braking impacts.
- Hot temperatures increase cable sag, causing lighter riders to stall mid-zip, requiring manual retrieval.

Why the Website's Article is Negligent:

- The article ignores this critical engineering consideration and does not inform operators of their duty to adjust tension seasonally or conduct dynamic speed testing.
- ACCT standards require operators to test ziplines under varying environmental conditions—which the article completely omits.

### Rider Mass: A Huge Oversight into Risk Management

- ASTM F2959 requires zipline operators to establish minimum and maximum weight limits based on testing of their braking system.
- A heavier rider (100+ kg) can exceed braking capacity, leading to catastrophic impact injuries.
- A lighter rider (40 kg or less) may not generate enough momentum, stranding them mid-line and requiring a complex, high-risk retrieval operation.

Why the Website's Article is Negligent:

- Most waivers fail to explain how different rider weights affect stopping distances and retrieval procedures.
- ACCT standards require specific braking redundancy for high-speed ziplines—yet the article makes no mention of these mandatory safety measures.

---

### 3. Waivers Cannot Excuse Gross Negligence or Regulatory Violations

The website's article claims that a digital waiver ensures that operators are not responsible for injuries, which is legally false. Waivers can only protect a business from claims of ordinary negligence, not gross negligence or reckless conduct.

Key Legal Issues:

- State Laws Vary on Enforceability of Waivers
  - [California \(Tunkl v. Regents of the University of California, 1963\)](#): Waivers cannot protect against gross negligence.
  - [Florida \(Kirton v. Fields, 2008\)](#): Parental waivers do not hold up in court for minors.
  - New York: Waivers are strictly scrutinized and often voided if found to be vague or overly broad.

Why the Website's Article is Negligent:

- It does not mention any jurisdictional differences in waiver enforceability.
  - It falsely implies that all waivers will protect a business, when many states do not recognize them in cases of severe injury or negligence.
  - It fails to warn operators that relying on a waiver instead of safety compliance can result in full liability.
- 

#### 4. Misleading Comparison to Home Insurance

- The website's article compares digital waivers to home insurance, implying that waivers passively protect businesses in case of injury.
- This analogy is misleading and dangerous:
  - Home insurance compensates losses after damage occurs.
  - A waiver does not prevent lawsuits, nor does it compensate injured participants.
  - Proper compliance with ASTM standards is the only true risk mitigation strategy.

Why the Website's Article is Negligent:

- This creates a false sense of security for operators, potentially leading to reduced emphasis on safety measures.
  - Courts will not accept an argument that a waiver replaces an operator's duty to provide a safe experience.
- 

#### 5. Ethical and Marketing Misconduct

- The website's article encourages data collection from waivers for marketing purposes, which may violate consumer privacy laws.
- The California Consumer Privacy Act (CCPA) and GDPR (for European tourists) impose strict data protection regulations.
- Using digital waivers to collect customer data without proper consent could result in legal penalties.

Why the Website's Article is Negligent:

- It fails to address the legal implications of collecting personal guest data.
  - It does not caution operators about local regulations (i.e., GDPR or CCPA) and compliance when storing guest information.
-

### Conclusion: What the Article Should Have Stated

1. Waivers are NOT a substitute for industry standards (ASTM F2959, ACCT, state regulations).
2. Operators MUST account for environmental changes (delta T) and rider mass when designing braking and retrieval systems.
3. Waivers DO NOT protect against gross negligence, regulatory and standard violations, or reckless conduct.
4. State laws vary on waiver enforceability—consult an attorney before relying on them.
5. Operators MUST comply with state amusement ride regulations and annual inspections.
6. Marketing use of waiver data must comply with consumer privacy laws.

### Final Verdict: The Website's Advice is Grossly Negligent

The article or webpage in the subject website falsely implies that digital waivers provide comprehensive liability protection, ignore critical engineering safety factors, fail to reference ASTM and ACCT standards, and misrepresent legal realities about waivers. Relying on this advice could lead to more injury lawsuits, regulatory shutdowns, and financial ruin for zipline operators.